

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:01CR48

THIS MATTER is before the Court on Defendant's *pro se* motion to withdraw the Notice of Ineligibility regarding Crack Cocaine Offense filed by appointed counsel on August 1, 2009. The motion is denied.

Defendant states he was not notified of counsel's decision to issue the notice prior to its filing and that such notice "is not in his best interest" in seeking a reduction of his sentence pursuant to Amendment 706 of the Guidelines regarding cases involving crack cocaine convictions.

However, counsel's notice was filed one day after the Court's entry of the Order denying the Defendant a sentence reduction.¹ **See Order**

¹ Even though not considered before entering the Order, counsel's opinion that Defendant was ineligible for a sentence reduction was based on the same grounds for which the Court determined to be applicable in denying any reduction in Defendant's prison term. **See Notice of**

Regarding Motion for Sentence Reduction pursuant to 18 U.S.C. § 3582(c)(2), filed July 31, 2009 (“Amendment 706 provides no reduction for cocaine base amounts in excess of 4.5 kilograms or more and this case involves 9.1 kilograms of cocaine base.”).

IT IS, THEREFORE, ORDERED that the Defendant’s motion to withdraw Notice filed by counsel is **DENIED**.

Signed: August 14, 2009



Lacy H. Thornburg
United States District Judge



Ineligibility for Reduced Sentence, filed August 1, 2009, ¶ 8.